

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAVID W. BURTON,

Plaintiff,

v.

E.J. HALE, Detective, Kent Police
Department, *et al.*,

Defendants.

CASE NO. C06-654-MJP-JPD

ORDER DENYING PLAINTIFF'S
MOTIONS FOR APPOINTMENT OF
COUNSEL AND FOR ACCEPTANCE
OF ADDITIONAL MATERIALS

This is a civil rights action brought under 42 U.S.C. § 1983. This matter comes before the Court on plaintiff's motions for appointment of counsel and for acceptance of additional materials. The Court, having reviewed plaintiff's motions, and the balance of the record, does hereby find and ORDER:

(1) Plaintiff's motion for appointment of counsel (Dkt. No. 16) is DENIED. There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the Court, under 28 U.S.C. § 1915(e)(1), can request counsel to represent a party proceeding *in forma pauperis*, the Court may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789

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1 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984);
2 *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances
3 requires an evaluation of both the likelihood of success on the merits and the ability of the
4 plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved.
5 *Wilborn*, 789 F.2d at 1331.

6 Plaintiff has neither demonstrated a likelihood of success on the merits nor shown that, in
7 light of the complexity of the legal issues involved, he is unable to articulate his claims pro se.
8 Thus, plaintiff has not demonstrated that this case involves exceptional circumstances which
9 warrant appointment of counsel at the present time.

10 (2) Plaintiff's motion for acceptance of additional materials (Dkt. No. 17) is DENIED.
11 Plaintiff requests in this motion that the Court accept additional materials in support of the claim
12 set forth in his amended complaint. The additional materials consist primarily of case cites and
13 legal arguments which he believes strengthen his claim. Inclusion of these materials in the record
14 at the present time serves no purpose. Plaintiff will have an opportunity to present his legal
15 arguments to the Court at a later date.

16 (3) The Clerk shall send copies of this Order to plaintiff, to counsel for defendants,
17 and to the Honorable Marsha J. Pechman.

18 DATED this 5th day of January, 2007.

19 
20 JAMES P. DONOHUE
21 United States Magistrate Judge
22
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